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Underground Railroads: Citizen Entitlements and Unauthorized Mobility in the Antebellum Period and Today

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Abstract: In recent years, some scholars and prominent political figures have advocated the deepening of North American integration on roughly the European Union model, including the creation of new political institutions and the free movement of workers across borders. The construction of such a North American Union, if it included even a very thin trans-state citizenship regime, could represent the most significant expansion of individual entitlements in the region since citizenship was extended to former slaves in the United States. With such a possibility as its starting point, this article explores some striking parallels between the mass, legally prohibited movement across boundaries by fugitive slaves in the pre-Civil War period, and that by current unauthorized migrants to the United States. Both were, or are, met on their journeys by historically parallel groups of would-be helpers and hinderers. Their unauthorized movements in both periods serve as important signals of incomplete entitlements or institutional protections. Most crucially, moral arguments for extending fuller entitlements to both groups are shown here to be less distinct than may be *prima facie* evident, thus reinforcing the case for expanding and deepening the regional membership regime.

The case for deeper, European Union-style integration in North America has been pressed in recent years by prominent scholars, diplomats and political figures, including immediate past Mexican President Vicente Fox (Fox 2007; see Pastor 2004; Manley, et al., 2005). Their proposals include the creation of a regional inter-parliamentary group (Manley, et al. 2005), and eventually an EU-type North American Commission able to coordinate regional policy and promote integration (Pastor 2001, 187). More dramatically, and emphasizing the economic benefits that could be realized by the United States and Canada, they have argued for an extensive program of investment in Mexican roads, ports, and other infrastructure, and for following the European lead in freeing the movement of labor across national boundaries. Workers, they suggest, could be permitted

to move freely between the United States and Canada in the near term, and between Mexico and the other two states in the longer term, as wage gaps lessen and migrations pressures ease (Manley, et al. 2005).

This article takes as its departure point such arguments for deeper North American integration, and the presumption that deepening is at least one in a range of empirical possibilities. The central aim here is to highlight some additional moral reasons to pursue more intensive NAFTA integration. The discussion is informed by a conception of global or trans-state citizenship that is grounded in natural duties to help protect the core rights of others, including rights to adequate resources and life opportunities. The creation of what would effectively be a regime of citizenship in North America, even a thin one limited initially to workers mobility rights and related protections, could represent the most significant expansion of formal membership entitlements in the region since the recognition of former U.S. slaves as citizens in 1865. In fact, the discussion will be framed in what may seem a counterintuitive comparison between pre-Civil War slaves and unauthorized immigrants.

There will, however, be no presumption that enslavement is in any sense equivalent to impoverishment. The horrors that attended chattel slavery in the United States often far exceeded the deprivations and vulnerabilities inherent even to absolute poverty in the current global system. Rather, the massive, formally illicit movement of individuals from both periods calls attention to some ways in which the two groups are similarly situated. Just as the flight of so many from chattel slavery provoked fundamental questions about unequal entitlements in a divided liberal-democratic state, the northward movement today of millions of unauthorized immigrants in North America

foregrounds hard questions about highly skewed distributions of resources and membership opportunities in an integrating regional system, and ultimately in a sovereign states system. Both mass movements serve as signals of deprivation and, especially in the case of slaves, abuses of individuals, related to a lack of formal standing in protective institutions capable of securing their most basic rights.

Both mass movements also are notable for the extraordinary hardships individuals have suffered on their journeys. That is to say, for every Henry Box² Brown, who escaped from slavery in Richmond, Virginia by traveling twenty-six hours inside a small wooden crate aboard a steamboat to Philadelphia, there is today a Yanet of Chiapas, Mexico. She survived twenty-four days in the Arizona desert with a broken ankle, crawling on her hands and knees, eating raw cactus pads and drinking from puddles of rainwater. Brown, in his own narrative account, recalled the most excruciating part of his journey being when his box was placed upside down on the boat, despite a warning painted on the outside to keep it Right side up, with care.

In this dreadful position I had to remain nearly an hour and a half, ... I felt my eyes bursting from their sockets; and the veins on my temples were dreadfully distended with pressure of blood upon my head. In this position I attempted to lift my hand to my face, but I had no power to move it; I felt a cold sweat coming over me which seemed to be a warning that death was about to terminate my earthly miseries ... (Brown 2002, 60).

Brown was spared when two steamboat passengers decided to use his box for a seat and turned it back on its side, though still he was mostly in agony for the remainder of the journey. Respite, and Browns freedom from slavery, came amid a triumphant landing at Philadelphia, where prominent abolitionists were on hand to pull him from the box.

Yanet's ordeal lasted longer. She related initially being forced to leave Chiapas, the impoverished southern Mexican state, because of difficulty finding any work around her home, especially after the damage caused by Hurricane Stan in October 2005. She journeyed north, joining a group for the trek through the southern Arizona desert. Her troubles began when she was descending a steep hill on the trail and began to feel shaky or light-headed. One of the group's guides berated her, she said, ordering her to move more quickly, then pulling her roughly by the arm. A stone rolled beneath her foot, and she felt the crack of an ankle bone.

They started saying that I was worthless, couldn't even walk. And so they left me, in a wash [dry creek bed], alone. ... I decided to start walking on my knees ... and as the days went by, my knees turned purple. ... Some days I'd find water and other days nothing. Water above all, I had to find plants, and thank God I found some. They were prickly pears [cactus] ... I ate them. ... Then I came upon a puddle and I stayed there five days, in the hope someone would come by, but no one came. At times I would shout, for someone to help me, and there was no one (Pickard and Gayá 2006).

She finally reached a road on May 26, 2006. Even then, numerous vehicles passed before she was helped to a Tucson hospital by a Mexican immigrant family.

Members of the two mobile groups are viewed here as points on a continuum of citizen entitlements. Such entitlements are fixed in large part by the ascriptive, or unearned birth status of the individual. Slaves had no firm entitlement to the fruits of their labor. Current economic migrants in North America, as well as those who would choose to move if given the opportunity, generally lack access to adequate work. They have no firm entitlements to cross boundaries to seek more sustainable long-term employment, or short-term employment that could fill gaps created by failures in markets and social welfare provision. In that, they might be viewed as somewhere on the continuum near

African-American and other ethnic minority workers through much of the Twentieth Century, who were barred from a range of employment opportunities because of their ascriptive status. Just as abolitionists, free African-Americans and others questioned the legitimacy of the antebellum economic and political structure, where such ascriptive markers as race and birthplace did so much to determine overall life chances, so has the current system been questioned by normative theorists and challenged by the unauthorized movement of millions seeking to address their own deprivations.

The examination of some strikingly rich, *prima facie* parallels between other groups on the original and new” Underground Railroad will add depth and context to the account. Those groups include antebellum abolitionists and current migrant-aid humanitarians, civilian slave-patrollers and current civilian border-patrollers, and paid human smugglers in both eras. The consideration of such parallels in both mass movements will lead us toward the deeper, morally significant parallels between the migrants and fugitives that, while not direct, are robust enough to challenge some prevalent understandings of appropriate membership regimes in the North American context. Fugitive slaves are seen today as having been justified in violating laws barring their own flight across a political boundary to address deprivations of personal freedom and often material provision. If those who currently seek to address their own deprivations by moving across a political boundary are able to call on broadly similar moral justifications, then that should strengthen the case for a more expansive and inclusive regional approach to citizenship and entitlement in North America.

The Underground Railroad

The Underground Railroad movement, decried during its operation as a vast conspiracy to deprive individuals of their rightful property, is now a celebrated part of the U.S. national myth. It is a morality tale absorbed by every school child, and one whose moral is, above all, about sacrifice and heroism in the face of legally sanctioned injustice. Its conductors, supporters and passengers are memorialized in an extensive filmography, a huge academic and popular literature, and in a Cincinnati, Ohio museum, the National Underground Railroad Freedom Center, that receives significant funding from the U.S. Department of Education (Bordewich 2004, 67).

The railroad actually was a loose network of anti-slavery activists, both white and black, who helped tens of thousands of fugitives escape over several decades. It arose in part as a response to the Fugitive Slave Act of 1793, which authorized the seizure of fugitives in the north and set steep fines for those aiding escaped slaves (Lowance 2003: 23-25; Finkelman 1990). Activists hid fugitives in their homes, arranged transportation for them to large Northern cities or Canada, and ferried them across the Ohio River border between North and South. With the movement's successes over several decades grew opposition, culminating in the second and more stringent Fugitive Slave Act, in 1850. That law decreed that anyone aiding a fugitive could be subject to six months in jail, and it created a special class of commissioners to act on fugitive slave cases (Mitchell 1998, 135). The changes provoked resistance in the North, in part because the act effectively required bystanders to help capture an alleged fugitive slave. Some local Northern governments went so far as to pass ordinances that defied the act, and it was not uncommon in Northern cities for large groups to forcibly free captured fugitives (Blackett 2004).

In the 1850s, generally seen as the heyday of the movement, underground activity increased markedly, and such African-American figures as Rochester, New York anti-slavery newspaper editor Frederick Douglass, himself a former slave, began to play leading roles in both underground activities and public abolitionism. William Still, whose mother escaped from slavery with two daughters before giving birth to him in free-state New Jersey, rose to become head of the Vigilant Committee of Philadelphia, where he aided fugitives and recorded their stories (1872;1968). Harriet Tubman made her much-chronicled journeys back to her home state of Maryland, leading scores of fugitives to freedom (Clinton 2004). Finally, as discussed in greater detail below, it was in 1857 that the Supreme Court made its seminal ruling in the Dred Scott case that slaves were not to be considered U.S. citizens and could not claim the rights or protections of the citizen (Lowance 2003, 458-62).

Ultimately, only a tiny fraction of those millions held in bondage in the first half of the 19th Century were freed via the Underground Railroad, and the numbers of successful escapes dropped the farther south slaves were held (Franklin and Schweninger 1999, 116-19). However, tens of thousands of fugitives did receive aid along the underground routes and ultimately found freedom in the North or Canada. Thus, the Underground Railroad is noteworthy not only as a milestone in the fuller recognition of the individual rights declared in the U.S. founding documents, but as a humanitarian network whose efforts produced direct gains in autonomy and material well being for many individuals.

The Current Northward Movement

Broadly similar gains, in material terms, have been realized by millions who have left their homes in Mexico and farther south to pursue opportunities in the United States. Workers who might earn the equivalent of \$35 per week as taxi drivers or farm laborers in Chiapas and other states of southern Mexico, or \$75-\$90 per week in the foreign-owned maquiladoras (factories) in northern border cities, report earning several times the latter wage in the United States (Kochhar 2005, 22-25). Much of the gain has been shared with those still in the current South. In Mexico, for example, nearly one in five adults receives some form of remittance from the United States (Suro 2003), and annual remittances have exceeded \$25 billion per year (Ratha and Xu 2008). Remittances cannot be viewed as a categorical benefit, since they can distort prices in receiving communities and cause some hardships for those not receiving overseas funds (Bracking 2003). However, they have been positively correlated to poverty reduction over time within a number of states (Lucas 2005, 190), and they are an increasingly important source of direct revenue to millions of families living at the margins in less-affluent states.

Nearly 12 million persons have been estimated to live without authorization in the United States, either as a result of illicit entry or overstaying a visa (Hoeffler, Rytina, and Baker 2007). Of those, some seven million are believed to have emigrated from Mexico, and some two-and-a-half million from other Latin American states. Just as the large-scale, unauthorized movement of fugitive slaves was assailed as a violation of property rights by prominent public figures in the antebellum United States, the movement of unauthorized immigrants across the US-Mexico boundary has been portrayed by some political leaders (Hayworth 2006; Tancredo 2006), and scholars (see Huntington 2004; Graham 2004), as effectively a violation of the rights embedded in the U.S. social

contract. Those would include access rights to such publicly provided or subsidized goods as health care and education, as well as perceived rights to employment opportunities for citizens, especially at lower wage levels.

Further, as the Fugitive Slave Acts aimed to make it far more costly to aid slaves fleeing the South, recent enforcement efforts have raised the costs to border crossers themselves. Beginning in the early 1990s, the U.S. Border Patrol effectively sealed common urban entry points with additional agents, and attempted to use mountains, deserts, and other geographic features outside border cities as natural impediments to movement (USGAO 2000, 6; Cornelius 2001). As crossers have taken to ever more remote trails to avoid agents, deaths on the full southern border have risen dramatically, from a mean of 263 per year from 1985-1998 to more than 375 from 2000-2009 (Eschbach, Hagan and Rodriguez, 2001, 8; see Cabrera 2010, Ch. 4). As in the case of Yanet above, the journey for many now approaches in arduousness or peril those undertaken by fugitive slaves. Migrant traffic has been channeled especially into the Border Patrols Tucson Sector, comprising the eastern two-thirds of Arizona, and the great majority of migrant deaths have been reported near the national boundary there in recent years. That area also is where both the migrant-aid humanitarian groups and civilian border-patrol groups emerged.

Related Parallels: Samaritans, Minutemen and Coyote Guides

Space constraints prevent a complete discussion of the groups dedicated to helping or hindering unauthorized migrants and fugitive slaves, but some brief consideration of the most prominent ones will highlight significant contextual parallels

between the mass movements of the two eras. First, we can observe that, just as networks of abolitionists began to take direct action to aid fugitive slaves on their journeys through inhospitable terrain, a network of direct-action groups has formed to aid crossers at risk – though not to actually guide them north -- especially in the higher-traffic areas of southern Arizona.² In 2000, members of the Humane Borders group began installing and servicing water stations on major crossing routes. Soon after, Samaritan Patrol members began conducting day patrols for stranded crossers, and the No More Deaths coalition of border groups opened a desert camp and began searching more remote areas (Ellingwood 2004, 162-64). The groups report providing food and medical aid to thousands of at-risk crossers through 2010.

Unlike the Underground Railroad conductors, activists from No More Deaths and Samaritans have consistently maintained that the direct aid they provide to unauthorized immigrants is permitted under U.S. law, and they have not faced the threats of authoritatively sanctioned violence that abolitionists frequently did (Bordewich 2005, 149-51). They have, however, performed their work under the same intensive surveillance and explicit threats of arrest from authorities. For example, the No More Deaths camp was placed under 24-hour surveillance by the Border Patrol during the summer of 2005 (Author observations, July 2005). Also that summer, two group volunteers were arrested while attempting to drive injured migrants from the desert to a Tucson hospital. They were charged with conspiracy and aiding and abetting illegal entry into the United States (Innes 2005). The charges were later dropped on technical grounds (Grossman 2006), but no protection was offered against similar enforcement action in the future.

Besides attracting similar scrutiny from authorities, the antebellum and current groups also draw on many of the same sources of moral authority. Samaritans/No More Deaths and Humane Borders formally present themselves as faith-based groups (No More Deaths 2010), and both group leaders and members reference some of the same Biblical verses as did the conductors and background supporters of the Underground Railroad. Further, it is significant that both movements were initiated in large part by individuals who did not share the ascriptive ethnic identity of those being aided. Such groups or movements have been characterized as universalistic, where activists are motivated by reasons other than ethnic or racial solidarity to render direct aid (Gibson 1991). As noted, in the Underground Railroad and abolition movement, many African-Americans emerged as significant movement leaders over time (Humez 2003), and similar trends have been seen in recent years, with Latino and immigrant groups emerging to offer visible and vocal resistance to measures targeting unauthorized immigrants in the United States.

Again, current humanitarian-patrol groups are not directly guiding individuals north in the way that, say, volunteers in the Sanctuary Movement did as they defied U.S. government opposition to guide and resettle refugees from Central America in the 1980s. Sanctuary movement leaders, many of whom have been active in the current Arizona groups, consciously adopted the network operational structure of the antebellum Underground Railroad, in which a volunteer would guide fugitives to a specific point, where they would be handed to another volunteer aware of only the next drop point (Author interview, John Fife, December 2005). Certainly there are other significant comparisons to be drawn between Sanctuary and the antebellum aid efforts. Yet, the

actions of current helper groups arguably have deeper connections to those in the antebellum period. Those Central Americans receiving aid from a universalistic group in the 1980s were caught in a confluence of extraordinarily repressive political conditions that, while fitting a pattern of tyranny that has recurred all too often in Latin America and elsewhere, was of finite duration. The poverty that spurs the movement of most of today's migrants is generally not felt at the same intensity as the death-squad repression of the 1980s, but as was antebellum slavery, it is chronic, perpetual, reproducing itself over many generations.³

A separate parallel in both the antebellum and current mass movements involves paid guides. More than seventy percent of crossers are estimated in recent years to have used the services of professional guides, or human smugglers, as a result of the tighter enforcement regime (Orrenius and Coronado 2005). The proportion of paid guides on the Underground Railroad routes is believed to have been far less, but a number of antebellum sources note the guides importance. Consider the following from the *Reminiscences of Levi Coffin*, the renowned Newport, Indiana conductor, named by his critics the President of the Underground Railroad:

For the sake of money, people in the South would help slaves to escape and convey them across the line, and by this means, women with their children, and young girls ... were enabled to reach the North. ... Free colored people who had relatives in slavery were willing to contribute to the utmost of their means, to aid in getting their loved ones out of bondage; just as we would do if any of our loved ones were held in thralldom (Coffin 1879, 170-71).

Ships captains also were known to accept payment to transport fugitives, as in the much-chronicled 1848 case of the *Pearl* in Washington D.C., in which a captain was paid to transport fugitives but was caught underway (Pacheco 2005). Former slave Thomas

Smallwood discussed the exchange of money in the slave-freeing network that he helped operate in Washington, D.C., in the early 1840s (Smallwood 1851; 2001). He also reported ruefully that some of those he paid would then exploit the fugitives, extorting higher fees and on occasion delivering them back into slavery for reward (30-32). Current crossers are similarly vulnerable to unscrupulous guides, to extortion, robbery, rape, abandonment in the desert (Singer and Massey 1998, 564-65). While paid guides are more prevalent today, they operated in much the same way in the antebellum period, accepting payment from relatives of their passengers, arranging transport, at times posing significant risks to their own vulnerable charges.

Finally, we can note some parallels between the civilian slave patrols of the antebellum period and today's civilian border patrol groups. Slave patrols roamed the countryside attempting to recapture slaves who had fled, besides serving as a sort of police force over slaves in Southern towns and cities (Franklin and Schweninger 1999, 154). Patrol members generally were more conscripts than volunteers, required to serve by decree of state legislatures, or to provide their own substitutes, and often being paid for their service (Hadden 2001, 10). The recent Minuteman Project and like groups, comprised almost entirely of volunteers, represent the largest effort by civilians to engage in direct border-enforcement action, though such efforts date to at least the mid-1970s in Arizona (Doty 2007). Several hundred volunteers, many carrying sidearms, took part in the groups initial April 2005 vigil at the border in southeastern Arizona, during which suspected unauthorized crossers were reported to the Border Patrol. The group has staged numerous smaller Arizona vigils since, in addition to picketing sites in Phoenix where immigrant day laborers congregate. Chapters also have been formed in other U.S. states.

In attempting to perform substantive enforcement work, the Minutemen can be viewed as analogous to slave patrols. Both represent groups of civilians attempting to fill perceived gaps in domestic governance activities. Slave patrols, of course, have been widely viewed as the forerunners of the Ku Klux Klan and other night rider groups in the post-Civil War period (Hadden 2001, 207-16). Minuteman leaders have been adamant that their volunteers are neither violent nor racist, citing strict self-defense protocols and screening processes. While no members of the main Minuteman patrol group have been implicated in criminal violence against immigrants, we can note that in separate civil cases, juries made awards of roughly \$100,000 each to migrants or Hispanic Americans who asserted abuse by other civilian border patrollers in Arizona and Texas (Pollack 2005; Archibold 2006). Also, as acknowledged by a Minuteman spokesman, group members have at times exceeded their stated report-only protocol to pursue and hold for authorities groups of suspected unauthorized crossers (Author interview, Frank Alvarez, May 2007). Overall, the civilian border-patrol movement has been at least partly analogous to the slave patrols and night-rider groups in representing a pervasive threat of violence, spurred in part by attitudes toward a specific group.⁴ Like the slaves living in constant shadow of fear that they could become victims of the slave patrols (Hadden 2001, 123-4), today's unauthorized crossers cannot know, when they are spotted by a non-uniformed volunteer, whether they will be chased through the desert, held at gunpoint, beaten, or simply reported to the Border Patrol. In both periods, the presence of non-professionalized civilians who have little formal oversight in their efforts to enforce the law magnifies the risks to those crossing borders.

Migrants and Fugitives

In comparing the situations of fugitive slaves and unauthorized migrants, we can note again that members of both groups are restricted by birth status in their access to adequate institutional protections, or entitlements. Both seek to expand their entitlement set through formally illicit movement across borders. In the domestic context, the chattel slave has been held up as the clearest example of an individual who, by dint of ascriptive status, is socially dead, or not formally entitled to make claims on institutions or others based in reciprocal duties (Rawls 1993, 33). Likewise, but again at a different point on the citizenship-entitlement continuum, Joseph Carens (1992) has highlighted ways in which being born into a less-affluent state in the current global system is analogous to being born into a poor family in a domestic feudal system. An individual's social mobility and overall life chances are severely restricted by the straightforward lack of birth and lack of social standing to make formal claims in both cases. Freeing immigration between states, Carens contends, could be one means of expanding social mobility for those in less-affluent states.

While it is not presumed here that full free movement would be feasible outside of advanced regional integration projects—and Carens is cautious about feasibility claims as well—such an argument usefully underscores the importance of considering individual entitlements to resources and opportunities. In such an approach, entitlements encompass core individual rights and extend to societal distributions that ensure access to food and other vital goods, or the alternative commodity bundles that a person can acquire through the use of various legal channels of acquirement open to someone in his position (Sen 1987, 8; Sen 1999, 39). Entitlements offer a useful frame to compare the resource and

opportunity sets available to the populations from which both fugitive slaves and current migrants emerge. Both find the commodity bundles available restricted in large part because their access to channels of acquirement, including citizen membership in a broad-based economic and political project, is restricted.

Slaves and migrants both had myriad opportunities to labor in their pre-migration sites. Slaves labor in fact ran the gamut from the most arduous and repetitive tasks, to semi-skilled and skilled labor requiring great technical competency. However, slaves had no firm entitlement to compensation for their labor, including in situations in which they were hired out to others and promised they could keep some of their wages or put some portion toward their own freedom. It was common practice for owners to renege on such promises or sell slaves who had made years worth of payments (Franklin and Schweninger 1999, 136-45). Further, if their provision of food, shelter, etc., was not adequate, slaves had little or no access to legal channels in which they could formally challenge their masters. Nor could they exercise any formal power of exit to try to find more suitable work circumstances, or effectively press their own claims against treatment that violated what laws there were against slave abuse.

Those joining the current migrant flow, as well as those in Mexico who report that they would emigrate to the United States if it were permitted (Suro 2005), do have formally free labor power in their home countries. They also generally have more secure rights to the fruits of their labor than did slaves. However, their ability to fruitfully employ their own labor power can be severely restricted by a lack of access to employment that pays sufficiently to sustain an individual or family. For example, a survey of unauthorized Mexican migrants in the United States found that, while only 5

percent of non-students and homemakers in the survey actually were unemployed in Mexico, most had been *underemployed*, unable to find work that would adequately sustain them or their households (Kochhar 2005, 6). Even for those with work in the formal, rather than informal sectors, e.g. street vending, wages often are insufficient to cover basic needs. As noted above, wages in the maquiladoras, foreign-owned factories employing some 1.2 million workers, mostly on Mexico's northern border, average below \$90 per week (Hendricks 2005), while costs for food and other staple items are not significantly less than in the United States.

It might be suggested that Mexico in the aggregate makes for a strained comparison. That is, the country ranked 53rd of 179 states in the United Nations Human Development Report (2009), placing it within mid-level developing states on such variables as life expectancy, literacy, access to medical care, etc. Yet poverty in Mexico, especially in its southern states, is both chronic and widespread. More than 20 million in the country were estimated to be subsisting on less than \$2 per day (World Bank WDI 2008). Five percent of children were estimated to be chronically underweight, and about five percent of Mexico's 108 million – some 5.4 million persons – did not have access to clean water (UN Human Development Report 2009).

Even in areas of relative economic opportunity, such as the maquila boom cities on the northern border, workers often have the means only to live in shantytowns, building homes from scrap wood, castoff tires and other found materials in areas that lack basic services (Author observations, 2003-07; see Bean and Spener 2004, 362). In the Bella Vista neighborhood, of Nogales, Sonora, for example, shanty homes perch on steep desert slopes. Deprivation intensifies with elevation, and those near the summit have no

water service and often no access to electricity, though most do work in factories or other jobs in the city. Many in the area are single mothers who struggle to raise their children on wages of as little as \$30 per week, noted Francisco Trujillo, a native of Nogales, Sonora and former maquila executive who directs a community center in the area. It's very difficult for them to survive, Trujillo said, noting that many children are kept out of school because their parents cannot afford to purchase required supplies. It's not really a choice for them, when it comes down to buying food or buying the supplies" (Author interview, December 2005).

It is not suggested here that whether individuals will attempt unauthorized entry into the United States is based solely or primarily on some economic cost-benefit analysis. Numerous other factors come into play, including social relations with current or former migrants (Palloni et al., 2001). In the North American context, however, it is significant that, while some 7 million Mexicans are believed to be living without authorization in the United States, Canada, a high-income state which shares a longer land border with the United States, does not rate even among the top 10 sending countries of unauthorized entrants (Hoeffler, Rytina, and Baker 2007, 4). Gaining access to adequate economic opportunities is a significant factor in the current northward movement.

Possible Objections

I will note that there is nothing inherent in the logic of the approach sketched above that limits its application to a particular geographic region. Numerous theorists have argued for relatively demanding *global* conceptions of distributive justice that

would require much more significant material transfers across national boundaries, as well as some global institutional transformation. Such accounts have been grounded variously in the interdependence of states (Moellendorf 2002), in negative duties to avoid harming others via an ostensibly unjust global order (Pogge 2007), and in positive duties to aid that would apply even in the absence of extensive state interaction or harm (Caney 2007).

I have discussed at length elsewhere a conception of global citizenship grounded in positive natural duties to help protect the fundamental rights of others, where natural duties are understood as ones owed to other individuals regardless of any voluntary actions such as consent given (see Buchanan 2004, 86-87). I have argued that, given biases which naturally arise when individuals decide their own obligations, such duties would be most effectively discharged through the creation or transformation of supranational institutions. In such institutions, biases can be mitigated and broader membership and entitlement regimes established for individuals. Such integration, as discussed below, could include both investment in less-affluent states and the expansion of individual economic rights and related mobility rights (see Cabrera 2010, Chs. 2-3). The North American Free Trade Agreement represents simply one existing set of institutions in which rights-enhancing integration could be pursued. Again, however, the fact that thousands daily mount their own challenges to exclusions in the NAFTA region makes it a particularly apt site for exploring the case for deeper integration.

In considering possible objections, I want to first highlight some ways in which natural positive duties to assist others actually figured quite strongly in the antebellum period. It can be shown that some of the seemingly obvious justifications for the

inclusion of former slaves, based in obligations to compatriots or communal identification, either reduce to natural duties or are equally applicable to large numbers of current unauthorized immigrants. For example, it might be objected that the core and obvious difference between current migrants and fugitive slaves is that the slaves were US citizens. Those aiding slaves were merely acting on their presumed obligations to other compatriots, helping them gain access to a set of entitlements more fitting to members of their political community. It can be noted, however, that they were not in fact acting in behalf of co-citizens. Slaves' membership status had been precarious at best through the first half of the 19th Century, until under the 1857 Dred Scott decision, the US Supreme Court stripped slaves of even their tenuously held and presumptive citizen rights, making clear that they were to be considered nothing more than the property of their owners (Lowance 2003).

The Court's ruling might be dismissed as a mere expression of the prejudices and tensions of the late antebellum period, an action that should have little bearing on our understandings of appropriate citizen belonging in the U.S. context. That is, slaves clearly *should* have been accepted as US citizens. Consider, however, the vigorous debate at that time, even among some ardent abolitionists and African-American leaders, surrounding whether full integration and citizenship was the appropriate answer for the descendants of those taken in chains from their homelands and thrust unwillingly into a new national context. Some offered reasoned moral arguments for a separate belonging, perhaps in a new homeland somewhere in the United States, or in Liberia, Haiti, or elsewhere. Many black thinkers agreed that white Americans would never accept blacks as equals.

According to these thinkers, blacks could flourish only if they left the United States and established their own country (Lawson 1992, 56).

Consistent with such an understanding, and also motivated at least in part by fears that former slaves and free blacks could not be fully integrated, the American Colonization Society purchased territory for the state of Liberia in 1818 and over time helped transport more than 14,000 African-Americans there (Bordewich 2005, 70). Many of those supporting such colonization and opposing full membership for free African-Americans drew on a rigid conception of Republican citizenship. David Streifford notes in particular the rhetoric of Kentucky Sen. Henry Clay, a slave owner who favored emancipation and the return” of black Americans to Africa.

For Clay and many of his contemporaries, civil, moral and political virtue required racial equality among a homogenous citizenry. But free blacks as a class seemed to be hopelessly dependent in America... they deprived whites of the classical Republican virtues of independence, hard work and public spiritedness. Returned to their homeland, however, and thus leaving America a homogenous nation of racially equal citizens, the same free blacks would take with them solid republican characteristics to be imparted to their African brethren (Streifford 1979, 201-02).

Even some more recent commentators, such as Robert Brock, president of the Self-Determination Committee of Los Angeles, have argued that African-Americans should consider themselves separate from the citizens of the United States, since they were brought to the country by force and their consent was never explicitly sought in the question of whether they would be citizens (Lawson 1992, 51). Others, including noted abolitionists in the antebellum period, had visions of slave or African-American integration that fell well short of undifferentiated citizenship. Thus, while many made clear arguments for fuller citizenship, others offered good-faith arguments that extending

full citizenship was not the appropriate resolution for individuals who were present in the country only as a result of force and compounded injustices.

It might still be argued that slaves should have been granted specifically US citizen status based on their comprehensive self-identification with the American national project. Especially for those born into the later antebellum period, the southern United States was the only political and social context they had known. Certainly it was one in which most had received dismal treatment, yet it might be unfair to remove individuals summarily from the context they understand as their own, even if some plausible argument could be offered for a separate citizenship in some other part of the world. The system in which they were raised is the one in which their own identities, understandings and life expectations will have been formed, and it may be the one in which they would choose to remain, to address injustices and seek fair treatment for themselves and others similarly situated, rather than be sent to some other locale, even if they might expect to see less discriminatory treatment there.

The same kind of self-identification could, however, be claimed for large numbers of the current mobile group. Consider first the situation of those brought as very young children from Mexico to the United States via unauthorized entry. Tens of thousands self-identify as Americans, having memories of no other national context and often being limited by their immigration status from visiting their birth countries. As observed by one young woman, a college student in the Phoenix, Arizona area who had lived continuously in the United States since being brought without authorization from Mexico as a toddler of 18 months, 'This is the only country I know. I'm an American (Author interview, May 2007).

Legislation, in the form of the DREAM Act, has been introduced to Congress several times in recent years to offer such young people, an estimated 65,000 of whom graduate from high school each year (Passel 2003), a path to regularized status, as well as access to lower, resident college tuition rates. Barring its passage, however, they remain in a citizenship limbo that shares important characteristics with that of the post-Dred slaves in the south. Both groups are composed of individuals who find themselves involuntarily situated in a political context, one with which they may strongly self-identify, but also one which does not recognize any rights to inclusion for them. Both face removal to a separate citizenship or communal membership if arguments made on their behalf for formal citizen inclusion are not accepted.

In regard to those migrants who were not brought as children, but who elected to enter without authorization, we can note such formal recognition of their own partial incorporation into the U.S. polity as the amnesty provision of the 1986 Immigration Reform and Control Act, under which more than 2.6 million obtained legal permanent resident status. Such a move reflects in part an understanding that unauthorized immigrants, many of whom dwell for decades without formal status in the United States, are knitted into its economic and social fabric, and that they can come to identify strongly with it. Unlike slaves and their antebellum descendants in the South, they chose to place themselves in the U.S. political context, yet as noted above, that choice often is one made from a very limited menu of options.

Overall, the underlying justifications for the formal inclusion of both former slaves in the Civil War-era United States, and the impoverished in the current NAFTA region, are less distinct than they may at first appear. Neither group held formal citizen

status in its political context, i.e., the full United States for slaves and the full NAFTA region for those in Mexico. Arguments that slaves should have been viewed as full U.S. citizens are complicated by competing, good-faith arguments offered by abolitionists and antebellum black leaders, among others, for separate membership. Arguments based in the self-identification of late-antebellum slaves with the U.S. national project would have to contend with similar self-identification by those in the current set brought north illicitly as children and raised often exclusively in that context, and to a lesser extent with those long-term residents who entered as adults and have become integrated into the U.S. context.

Fugitive slaves are viewed categorically today as having acted illegally but not immorally in attempting to expand their own autonomy and material provision by violating laws against free movement. The foregoing has highlighted some ways in which unauthorized immigrants have attempted to gain access to a more nearly adequate opportunity set in the receiving state, and how that highlights moral challenges to current membership exclusions. Further, the discussion has pointed to some ways in which the actions of those aiding fugitives and advocating fuller citizenship for former slaves represent not duties discharged to compatriots, but the observation of positive natural duties to help protect others rights.⁵ In the North American context, those volunteers aiding unauthorized immigrants and advocating forms of inclusion can be said to observe similar positive duties, consistent with a global or trans-state citizenship orientation that would seek to expand formal entitlements for those desiring to cross borders. Such an orientation could fundamentally inform the development of a more expansive approach to formal membership in the region.

Deepening Regional Integration

As noted, the European Union has been cited as a model for the deepening of North American integration. I do not presume here that it provides a complete model. Rather, it is a valuable laboratory for the exploration of the challenges that any integrating system is likely to face, and ways that individual access to resources and opportunities actually could be enhanced through some types of integration. I can only note some possibilities here. First, under the still-evolving EU citizenship regime, millions of persons have been formally permitted to cross national boundaries in pursuit of economic and other opportunities. That has included since 2004 hundreds of thousands of citizens of less-affluent acceding states such as Poland and Hungary, who were permitted to freely enter the United Kingdom and some other member states immediately, and were to be permitted entry into other member states over time (Carrera 2005).

Economic benefits related to immigration have been reported for both sending and receiving states since the enlargement (Baas and Brucker 2008), and a progressive income convergence has been found between existing EU states and those acceding from Central and Eastern Europe in the years of progressively deepening integration leading to formal accession (Matkowski and Prochniak 2007). Certainly the integration process has created winners and losers, and many aspects are open to criticism, but the expansion of even the relatively thin European entitlement set, and accompanying cross-border investments in infrastructure and development capacity, has enabled significant material gains for tens of millions in less-affluent states.

As earlier discussed, some rigorous, substantive proposals for deepening North American integration, including freeing the movement of workers across borders, have been offered in recent years. Robert Pastor (2004) has emphasized ways in which targeted European Union development transfers in the late 1980s helped raise per capita GDP significantly in its then-poorest members, and he argues that similar gains could be made through the creation of a North American Investment Fund facilitating tens of billions of dollars worth of transfers from the United States and Canada over 10 years. Mexico would be expected to contribute a like amount over time to improvements in its roads, ports and other trade-related infrastructure, as well as its higher educational system, by gradually increasing its tax revenues (Pastor 2004; Pastor, et al., 2005). Pastor estimates the wage gap between Mexico and the United States could be narrowed by twenty percent within ten years, and possibly closed within fifty, under a consciously directed program of deeper integration.

Pastor rightly notes that any such comprehensive program of development aid and closer governance coordination in North America would be a political tough sell, probably especially in the United States. Besides likely opposition from some organized labor groups, many migrant-rights and other activists likely would be skeptical of any plan to deepen or expand NAFTA, which they perceive as having worsened development disparities in Mexico. However, a more deeply integrated NAFTA, one including significant development transfers, and in which appropriate trans-state participatory mechanisms are gradually developed, could be a worthy institutional ideal in the relatively near term. It would have the potential to help Mexico overcome some development gaps on the way to fuller economic partnership in the region, and as a

consequence, lessen the need for so many to trod the increasingly deadly migrant trails, besides gradually routinizing mobility channels for workers across borders.

In closing, I will note again that, while historical parallels and current, pragmatic possibilities for reform make the NAFTA context an apt one for considering expansions of membership, nothing here precludes a consideration of the interests of those in other states. That would include such states as Guatemala and Honduras, which send tens of thousands of their own would-be U.S. entrants north each year. In fact, greater deprivations for individuals in those states actually should provide greater motivation to address their needs. Guatemala, for example, reports nearly a third of its population of about twelve million living on less than \$2 per day, while forty-four percent of the nearly seven million Hondurans live on less than \$2 per day (UNHCR 2006). While deeper NAFTA integration might fail to provide immediate benefits to individuals in those states, they are in fact embedded in the Central American Free Trade Agreement with the United States. That agreement could provide some purchase for the promotion of a deeper integration, transfers of development aid, and extension of trans-state citizenship similar to that advocated here for the NAFTA region. In the much longer term, it may be feasible to pursue some form of deep hemispheric integration such as the Union of the Americas proposed by former Mexican President Fox. The proposal would go beyond the stalled U.S. proposal for a Free Trade Area of the Americas to create a fully integrated hemispheric common market, among other measures (Fox 2007, 102). Such institutional transformation, in addition to moves toward expanding mobility and formal citizen standing for individuals across states, would hold the promise of significant material improvement over time for millions of deeply impoverished persons in the region.

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² The author conducted more than 50 in-depth, semi-structured interviews in southern and central Arizona with members of the No More Deaths and Samaritans humanitarian patrol groups, and more than 40 interviews with members of the civilian border patrol Minuteman Project, from March 2005 through June 2007. Insights presented here from the current context are drawn from interviews and extended field observations.

³ We can note also the current “New Sanctuary Movement,” in which a small number of churches have sheltered individuals who are under threat of deportation (Innes 2008).

⁴ The question of racism in civilian border patrol efforts is explored in detail in Cabrera 2010, Ch. 4.

⁵ This does not, of course, directly address arguments for giving priority to compatriots in social distributions, including ones that would seek to justify restrictive immigration regimes. For a detailed engagement with such arguments, see Cabrera 2010, Chs. 2-3.